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CHARLES ELMORE CROPLEY
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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, A. D. 1938.

THE MAYTAG COMPANY,
Petitioner,

vs.

HURLEY MACHINE COMPANY and ELECTRIC HOUSEHOLD UTILITIES CORPORATION,
Respondents.

THE MAYTAG COMPANY,
Petitioner,

vs.

EASY WASHING MACHINE CORPORATION,
Respondent.

Nos. 76, 77.

MOTION.

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Nos. 76, 77.

Motion.

Petitioner is here seeking a review of the same question as is involved in its suit against General Electric Supply Corporation, now pending on petition to this Court, Docket No. 352, i. e., the validity of claims 23, 26 and 29, of the Snyder patent No. 1,866,779, issued July 12, 1932, on a washing machine. In the instant cases, these claims were held invalid by the Circuit

Court of Appeals for the Second Circuit and in No. 352, they were held valid by the District Court for the Western District of Missouri. The latter case is pending on appeal to the Eighth Circuit Court of Appeals. On petitioner's motion showing the pendency of the instant cases in this Court, that Court has advanced the hearing of said appeal to the earliest practicable date, October 31, 1938.

If the decrees in the instant cases should become absolute by the denial of the writs now sought before the determination of No. 352, due to the limited time for filing petitions in this Court under U. S. C. Tit. 28, Sec. 350, two of the largest manufacturers of washing machines would be freed from liability under the Snyder patent to the detriment of the petitioner and other manufacturers, even though the Eighth Circuit Court of Appeals and this Court should follow the District Court in holding the Snyder claims in controversy valid. This manifest injustice, and the attending complications illustrated in *Rubber Tire Co.* v. *Goodyear Co.*, 232 U. S. 413, should be averted.

That petitioner has been diligent in the prosecution of the litigation involving the claims of the patent in suit will be apparent from the petitions in the instant cases and No. 352.

If the immediate granting of the writ sought in these cases be deemed inexpedient for want of present conflict of decisions between two Circuit Courts of Appeals as to the questions involved, we respectfully submit that this Court should withhold action on the petitions in the instant cases and No. 352, until after the determination of the appeal by the Eighth Circuit Court of Appeals in the *General Electric Supply Corporation* case to permit the filing in this Court of supplemental

petitions setting forth the decision of that Court if favorable to petitioner. This Court could thus prevent an injustice that would result if the present petitions were denied and no stay granted whereby the decrees in Nos. 76 and 77 would become absolute. A consolidation of these cases would facilitate the consideration by this Court of the questions involved.

Wherefore, petitioner respectfully moves that the petition in the instant cases be considered simultaneously with the petition in the case of *The Maytag Company, Petitioner,* v. *General Electric Supply Corporation, Respondent,* No. 352, on the current docket of this Court and in the event this Court deems it inexpedient to grant the writs sought by petitioner for want of present conflict between two Circuit Courts of Appeals, that it defer action on the petition in each until after the Eighth Circuit Court of Appeals shall have determined said appeal, when, if that Court affirms the decree of the District Court, there will be direct conflict between two Circuit Courts of Appeals which this Court should settle.

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